

COMMON COUNCIL PROCEEDINGS.

[illegible]

subject has already been confirmed—which was adopted.

of an animal which was carried. The report was accepted, and resolution and ordinance adopted by the following vote: *Affirmative*—The President, Assistant A. Jackson, Haley, Mc Carthy, Boyce, Harris, Wells, Ackerson, Grege, Francis, Smith, Cuy, Samms, Sands, Ward, and the Board, on motion, then adjourned to Wednesday at 5 P. M.

From the minutes. RICHARD SCOTT, Clerk.

LAW COURTS.

COURT CALENDAR.—This Day.—Superior, Supreme and Common Pleas, already reported.

CIRCUIT.—Nos. 1,102, 1,039, 1,041, 1,043, 1,045, 1,046, 1,048, 1,049, 1,079, 1,054, 679, 1,950, 1,057, 058, 237, 313, 1,055, 1,327, 656.

CIRCUIT COURT.—Before Judge Willard.—*Harriet H. Gunkel, vs. Henry T. Holcomb and Garret Vanclief, impeached with Francis Kain.*—To sury was set up, already referred to. Verdict for plaintiff \$1,073, being amount.

SUPREME COURT.—Habeas Corpus.—The parties charged with the robbery at the dwelling of the Countess le Camoutin, in Paris, ordered to be taken up, pursuant to demand under treaty, to the French Government, were brought, on Saturday, before Judge Edwards, and their discharge demanded. The hearing of the case stands postponed.

SUPERIOR COURT.—Before Judges Oakley, Sanford, and Paine.—*Decisions.*—*James W. Smith vs. City of New-York.*—Plaintiff, on the new law going into operation giving the legislative business to the Common Council and the executive business to the Mayor, was among the first in making proposals for the first contract under the new law, being for regulating and laying a portion of Twenty second st. A certain

Affirmative—Ald. Griffin, Dodge Oakley, Kelly, the Pres-
ident, Ald. South, Hays, Miller, Cook, Paul, Britton, Dela-

This was required by law, which the others had not complied with, leaving the proposal of Mr. Smith standing alone. His proposals were much better than the others, and he was admitted to the council as one of the members being admitted to them directed by the Street Commissioner, not to go on with the work, and the owners were finally allowed to go on with it themselves, it costing them we understand about \$1,600.

Mr. Smith subsequently sued the Corporation in the Superior Court, claiming that he was entitled to the contract and could have made a profit of \$5,000, if he had been referred to ex-Chief Engineer Jones, who decided in favor of Mr. Smith, and motion was made and argued to set the record aside.

This Court held that the Street Commissioner was not an agent of the Common Council, but an officer elected to perform certain duties as pointed out by law, and that he has no right to proceed, nor are his acts binding on the Corporation unless he strictly sticks up to the law. In the present case, the corporation was to state in the advertisement the amount of security which would be required as a bond, and plaintiff could not claim to take advantage of the informality of the other estimates, and disregard this.

The Court also remarked that the officers of the parliament are bound to be governed strictly by the rules and regulations and ordinances of the national assembly, and if they vary from those rules and ordinances the Corporation is not bound by their acts. It was necessary, in this case, that the Commissioner should have advertised according to the form pointed out. Mr. Smith knew he had not done so, and stated, in consequence, in his offer, a sum which would be sufficient for the security, and the Street Commissioner even entered into a contract with him without conforming to the rules, and the Corporation would not have been bound by it.

The Committee of Police presented a report in favor of paying medical bill of Dr. Page, for medical services at the North West Station House, etc.

to submit the estimates to the Common Council, and an appropriation be made by letter on all sums over \$500, before any contract shall be entered into. The referee considered this only to mean that the Common Council shall have, by its means, a knowledge of how much money they all be required to appropriate. This Court does not so consider. It thinks the intention of the law was that the City should be authorized to enter into any contract so far as to say whether the work shall be done on with or not, as the expense may be greater than to warrant, under the circumstances, an expenditure by the City, or the assessing, for the amount of the owners of adjoining property. They cannot, however, should a contract be entered into by the City, take it from the lowest regular bidder and give it to another. Judgment reversed, with costs, and rule of referee discharged.

Ex parte J. H. Thayer, et al. vs. Joseph Guillard, et al.—The receiver of defendants, creditors of J. H. Lewis, of the White Fort distillery, and claimed, under an arrangement that had been made, to be dormant partners of his, the value of quantity of molasses, furnished on his note to Mr. W. G. Sterling, one of the creditors, agent of the others, who were a Committee of the creditors of Mr. Lewis. It was contended, on the part of Mr. Sterling, and not the defendants, that the note was a non-claim, and that the arrangement was not a bona fide sale. Judges Oakley, Campbell and Peine sat on the argument, and Judge C. made the decision in this case, concurred in by Judge Oakley, considering that enough had been shown to warrant the idea that the distillery was being carried on for the benefit of the creditors, (the defendants,) who had become parties to the arrangement to relieve Mr. Sterling, and that

Adopted.
Of same, to concur to remit personal tax of D. D. Conover.

was a case of fact in law, and new trial ordered, and set the nonsuit aside. Judge Jones, who presided at the trial, was of a different opinion, and gave his views at much length, considering that nothing had been shown to prove a partnership, or that the creditors were wrong.

The present Trial Term will continue through January, with an intermission of one week from Friday December 1st to Monday in January. Causes which have not been noticed may be so for at Monday in January, and placed at the end of the December Calendar.

General Term, there will be for the first Calendar, embracing the original branch of the transferred causes branch—the latter be placed in their order before the former.

Chief Justice Oakley announced that application will be made to the Legislature to alter the law which fixes the duty of the Judges of the transferred branch to the hearing of transferred cases only, so as to consolidate both branches of the Court—in which case there will be every month, a General Term, Trial Term of two Courts, and Special Law Term, &c.